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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,756	12/29/2000	Robert A. Marshall	062891.0451	5059
5073	7590	09/28/2006	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			JAMAL, ALEXANDER	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/751,756	Applicant(s) MARSHALL ET AL.	
	Examiner Alexander Jamal	Art Unit 2614	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-3,5-12,14 and 16-26.


Claim(s) withdrawn from consideration: 4,13 and 15.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached response to arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Response to Arguments

1. Applicant's arguments have been fully considered but they are not persuasive.

As per applicant's arguments (pages 9,10) that Liu does not teach requantizing the demodulated signal, examiner disagrees. Erreygers is used to disclose an ADSL repeater comprising two separate functioning transceivers operating bi-directionally to regenerate ADSL data (as per the previously filed office action rejections). Liu discloses the specific and well known functions used in ADSL transceivers including analog-digital conversion 280 and data recovery (via core 260 and interface 245) in Fig. 2. Erreygers in view of Liu comprises two back to back ADSL transceivers functioning to demodulate requantize and remodulate the data in both directions. Examiner notes applicant's specification page 9 lines 15-30 which define 'demodulation' and 'requantization'. Demodulation includes the analog-digital conversion (page 9 lines 15-20) and requantization is the recovery of the demodulated data signal (page 9 lines 20-30). Examiner notes that Liu Fig. 2 block 280 discloses analog-digital conversion (demodulation) and further discloses requantization via blocks 260 and 245 to produce datastream 201. Applicant's claimed invention is directed towards the recovery of data for known modulated ADSL (such as QAM or DMT) systems. Liu discloses the SAME process as disclosed by applicant. Liu's system converts the received signal to digital ('demodulated' as per applicant's specification definition) and then recovers the original data (data steam 201) ('requantized' as per applicant's specification definition). Liu's

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system performs already known recovery of data for an already known modulation protocol. The same protocol (QAM or DMT) as disclosed by applicant's specification.

Again, the applicant is not claiming a new transmission protocol. The specification is directed towards forming a repeater for an ADSL system using an already known protocol. Applicant is using steps (demodulating, requantizing) that are already known to be done in order to recover data from the already known protocol DMT.

Erreygers discloses the same function of forming a repeater for an already known ADSL protocol, and Liu further discloses the specifics of recovering a signal modulated as per said protocol.

As per applicant's comments (page 11) regarding the disclosure of a constellation. Any sort of data modulated system inherently requires a constellation of recovered signal levels mapped to the modulated signal values by the definition of data modulation for the purpose of recovering the original data (as Liu does). Some received signal parameter must be measured and compared to a constellation, and a decision made as to what value the original data was (ie. usually a 1 or 0).


As per applicant's arguments regarding the motivation to combine each set of references (pages 13-14) examiner maintains that one skilled in the art would easily find the motivations as specified in the previous filed office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Jamal whose telephone number is 571-272-7498. The examiner can normally be reached on M-F 9AM-6PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A Kuntz can be reached on 571-272-7499. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and **571-273-8300** for After Final communications.

AJ
September 21, 2006


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 8800